

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

George W. Fickens,) C/A No. 2:12-2618-JFA-BHH
)
Petitioner,)
)
vs.) ORDER
)
Larry Cartledge, Warden,)
)
Respondent.)
)

The *pro se* petitioner, George W. Fickens, brings this action pursuant to 28 U.S.C. § 2254 challenging his state court conviction. The respondent has filed a motion for summary judgment and the petitioner has responded with his own motion to dismiss.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein she opines that the court should dismiss this action under Rule 41(a) of the Federal Rules of Civil Procedure. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The parties were advised of their right to file objections to the Report and Recommendation, which was entered on the docket on May 14, 2013, however neither party has filed objections. In the absence of specific objections to the Report of the Magistrate

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

Judge, this court is not required to give any explanation for adopting the recommendation.

See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation proper and incorporated herein by reference. Accordingly, petitioner's motion to dismiss (ECF No. 26) is granted and this action is dismissed pursuant to Fed. R. Civ. P. Rule 41(a)(2). Respondent's motion for summary judgment (ECF No. 14) is dismissed.

IT IS FURTHER ORDERED that a certificate of appealability is denied because the petitioner has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).²

IT IS SO ORDERED.



Joseph F. Anderson, Jr.
United States District Judge

June 4, 2013
Columbia, South Carolina

² A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (West 2009). A prisoner satisfies this standard by demonstrating that reasonable jurists would find both that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683 (4th Cir.2001). In the instant matter, the court finds that the petitioner has failed to make "a substantial showing of the denial of a constitutional right."